THE HONOURABLE SMT JUSTICE T. MEENA KUMARI
AND
THE HONOURABLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No. 6999 of 2004

ORAL ORDER:
(Per T. Meena Kumari, J)

The Writ Petition is filed seeking to quash the orders passed by the learned Central Administrative Tribunal, Hyderabad Bench, Hyderabad passed in O.A.No.395 of 2002 dated 27.2.2004.

Brief facts of the case are:

Petitioners herein are the respondents before the tribunal. Respondent herein is the Applicant before the tribunal. For the purpose of convenience, the parties as arrayed before the tribunal are referred to hereinafter. Respondent herein filed O.A.No. 395 of 2002 before the tribunal seeking to set aside the impugned proceedings O.M.No. AB-14017/30/89-Estt(RB) dated 10.7.1990 issued by the Department of Personnel and Training and the consequential letter dated 14.2.1996 of Director, Central Board of Direct Taxes, New Delhi to the Chief Commissioner of Income Tax, Hyderabad followed by the memo dated 20.3.2001 of respondent No.2 as illegal and to set aside the same and consequently to declare the action of the respondents in not maintaining the ratio of 1:3 between the Stenographers and ministerial cadres of scheduled caste candidate for promotion to the grade of Income-Tax Inspectors as highly illegal and arbitrary and being contrary to the recruitment rules. The applicant has prayed for a further direction upon the respondents to conduct a review DPC to the

DPC held in January, 2000, so as to maintain the ratio of 1:3 between the Stenographers and ministerial groups of Scheduled Caste candidates and to consider the case of the applicant in the review DPC relating to the DPC of January, 2000 and to give promotion to the applicatnt as Inspector, with retrospective effect, with all consequential benefits. Respondents filed their counter. After hearing both the parties and considering the material placed before it, the learned tribunal has allowed the O.A. with the following directions:

> "O.A. is allowed. The respondents are directed to correct the anamoly by rediverting 4 posts to the promotion quota of Stenographers in the category of schedule caste, by giving effect to promotions to the rank of Income-Tax Inspectors to the 4 Stenographers, which includes the applicant whose seniority is at no.3, and they shall stand promoted from SC category in the DPC held in January, 2000, with all consequential benefits.
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> The respondents are directed to give effect to the above order within a period of one month from the date of receipt of a copy of this order, by passing appropriate orders and upon such promotion being given to the applicant in the grade of Income Tax Inspector as per the DPC held in January, 2000 instead of the promotion given to him on 22.6.2001, the seniority of the applicant in the gradeof Income Tax Inspectors be refixed accordingly, extending to him all consequential benefits, and within the prescribed time of one month as mentioned above."

Heard both sides.

The learned Standing Counsel appearing for Income Tax Department has contended that the above decision of the learned tribunal is behind and back of the four incumbents whose posts were directed to be rediverted by the learned tribunal and those persons were not made as parties in the

present Writ Petition. However, the learned counsel for the respondent submits that it will not be effected by the directions of the tribunal, the tribunal having found there is anomaly and it should be corrected by rediverting the four posts and also the tribunal should have directed the respondent to make the four persons as parties to O.A. Before this Court also, the said four persons were not made parties and hence no Order can be passed behind and back of them rediverting those four posts from the promotion quota of Stenographers of Scheduled Caste.

Under the above circumstances as the necessary parties are required to be added to the O.A., the Order passed by the learned tribunal would amount to violation of the principles of natural justice and hence the judgment of the learned tribunal is liable to be set aside and the mater shall be remanded back to the learned tribunal for fresh consideration.

Accordingly, Writ Petition is allowed and the O.A. shall be disposed of in accordance with law. The learned counsel for the respondent is directed to make four persons, who were directed to be rediverted by the learned tribunal as necessary parties in the O.A. As and when such persons are made parties, the learned tribunal shall dispose of the O.A. without being influenced by any of the observations made in this Writ Petition.

With the above observations, the Writ Petition is allowed and remitted back.

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T. MEENA KUMARI, J

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G. CHANDRAIAH, J

14.6.2007

CHV